

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2561

IN THE MATTER OF:

Served June 1, 1984

Application of JONES & WASHINGTON,)
ASS'N. for Temporary Authority)

Case No. AP-84-24

By application filed May 14, 1984, Jones & Washington, Ass'n., a partnership, seeks temporary authority to transport mentally retarded and other developmentally disabled clients from their residences to day programs, interdisciplinary team meetings, medical appointments, court hearings, and for relocation of their residences, (a) between points in Washington, D.C., and (b) between points in Washington, D.C., on the one hand, and, on the other, points in Prince George's County, Md. The application is supported by the Bureau of Community Services (herein the "Bureau"), a branch of the Mental Retardation and Developmental Disabilities Administration of the District of Columbia Department of Human Services.

Applicant is presently engaged in transporting clients of the Bureau using taxicabs registered in the District of Columbia. The purpose of this application is to allow the applicant immediately to commence transportation in vans rather than taxicabs in order to accommodate an increasing number of clients being handled by the Bureau. Applicant intends to file an application for permanent authority within 30 days of the filing of the instant temporary authority application.

Applicant intends to use 15-passenger and 11-passenger vans to transport Bureau clients. One-fifth of the vans will be equipped with wheelchair lifts. */This proportion reflects the percentage of non-ambulatory persons the applicant expects to transport.

Applicant estimates it will transport 60 persons a day for the Bureau. It proposes a tariff rate of \$15.00 per ambulatory client per day, and \$35.00 per non-ambulatory client per day. Normal hours of service will be from 5:00 a.m. to 9:00 p.m. Service at other hours is available by special arrangement.

*/ This would appear to imply that applicant intends to operate a minimum fleet of five vans, but the application does not provide information concerning the size of the proposed fleet; such information will be required.

Submitted in support of the application is a letter by Nena Tharpe, Acting Administrative Officer of the Bureau. Ms. Tharpe's letter asserts that existing transportation service provided by the District of Columbia and private contractors is inadequate. She states that applicant's existing service using taxicabs has proven satisfactory to meet a part of the Bureau's need to transport clients.

Ms. Tharpe's letter further explains that an immediate and urgent need for applicant's proposed service exists due to the impact of certain consent orders entered by the U.S. District Court for the District of Columbia in Civil Action 76-0293 and of D.C. Public Law 2-137, known as the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978. These legislative and judicial mandates have resulted in a need to transport the Bureau's clients from their homes to day programs, meetings, medical appointments, and court hearings, and to transport them when relocating their homes. Inasmuch as schedules for transportation service may be changed on short notice, and because needs for unscheduled service may arise without notice, the Bureau requires the services of carriers with the flexibility to be able to provide service on short notice.

Ms. Tharpe's letter also indicates that the Bureau's volume of clients is increasing and will continue to increase over the next five months due to the outplacement of Forest Haven clients. This increase is cited as an additional factor necessitating the expansion of the applicant's existing service, with which the Bureau is highly pleased.

Title II, Article XII, Section 4(d)(3) of the Compact governs temporary authority applications. It provides as follows:

To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service. Such temporary authority unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify, but for not more than an aggregate of 180 days and create no presumption that corresponding permanent authority will be granted thereafter.

Based on the circumstances present in this case, we believe that a grant of temporary authority to the applicant is warranted. Three key factors support our decision.

First, the Bureau states that it has an increasing volume of clients with which to deal. As new clients are taken in, it is the Bureau's duty pursuant to legislative and judicial mandates to arrange suitable transportation for them. New clients cannot be left at home for months while the Bureau waits for a carrier such as the applicant to prosecute an application for permanent authority. Therefore, the

Bureau's need for service to accommodate its increasing client load is "immediate and urgent" within the meaning of the Compact.

Secondly, the Bureau specifically indicates that existing service is inadequate. While the Bureau's statement in this regard is less detailed than we would prefer, nevertheless we believe it is entitled to credence. We take it as an indication that existing carriers are incapable of meeting the particular need for service experienced by the Bureau.

Finally, the Bureau has been using government service, private carriers, and taxicab service, including taxicab service by Jones & Washington, but now asserts an urgent need for more service capable of achieving higher volume and reliability. Further, Jones & Washington have demonstrated to the Bureau the ability to provide "the quality and expertise that is required to provide services to clients who sometimes are difficult to serve because of their handicaps."

Because it appears there is an immediate and urgent need for the applicant's proposed service, and that no other carriers are capable of meeting that need, it is an appropriate and proper exercise of our discretion to grant the application at issue here to the extent indicated below.

THEREFORE IT IS ORDERED:

1. That Jones & Washington, Ass'n., is hereby granted temporary authority to transport passengers, restricted to the transportation of mentally retarded and developmentally disabled clients of the Bureau of Community Services, Mental Retardation and Developmental Disabilities Administration, District of Columbia Department of Human Services, between points in the District of Columbia, on the one hand, and, on the other, points in the District of Columbia and Prince George's County, Md., restricted to transportation in equipment with a manufacturer's designed seating capacity not exceeding 15 passengers, including the driver thereof.

2. That said temporary authority shall become effective on Monday, June 11, 1984, at 12:01 a.m., and shall remain in effect until midnight, Saturday, December 8, 1984, unless otherwise ordered by the Commission.

3. That Jones & Washington, Ass'n., shall file with the Commission no later than Friday, June 8, 1984, two copies of an affidavit certifying compliance with Commission Regulation No. 68-03 governing identification of vehicles, two copies of a tariff in the form prescribed by Regulation No. 55 applying to operations to be conducted under temporary authority, and three copies of a certificate of insurance evidencing the existence of security for the protection of

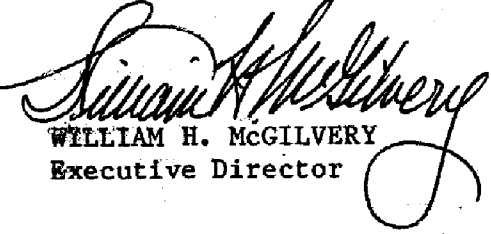
the public in the amounts required by Regulation No. 62-03, as amended.

4. That unless Jones & Washington, Ass'n., complies with the requirements of the preceding paragraph within the time established therefor or such additional time as may hereafter be authorized, the grant of temporary authority made herein is void and the application shall stand denied in its entirety.

5. That applicant provide a detailed equipment list, including make, model, license number, serial number, seating capacity, and description of special equipment such as wheelchair lifts, ramps, and clamps, not later than June 8, 1984.

6. That should Jones & Washington, Ass'n., desire to continue service beyond its grant of temporary authority, an application for a certificate should be filed within thirty days of the service date of this order, to permit adequate time for orderly processing.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


WILLIAM H. MCGILVER
Executive Director